

**SPINELLI, DONALD & NOTT**

A Professional Corporation

ROSS R. NOTT (State Bar No. 172235)

SEAN M. SPECIALE (State Bar No. 329368)

601 University Avenue, Suite 225

Sacramento, CA 95825

Telephone: (916) 448-7888

Facsimile: (916) 448-6888

Attorneys for Defendants

VENTURE ENGINEERING & CONSTRUCTION, INC.

and DAVID D. MONIOT

**ROBERT O LAMPL LAW OFFICE**

ROBERT O LAMPL, *PRO HAC VICE*

JAMES R. COONEY, *PRO HAC VICE*

ALEXANDER L. HOLMQUIST, *PRO HAC VICE*

Benedum Trees Building

223 Fourth Avenue, 4th Floor

Pittsburgh, PA 15222

Telephone: (412) 392-0330

Facsimile: (412) 392-0335

Attorneys for Defendants

VENTURE ENGINEERING & CONSTRUCTION, INC.

and DAVID D. MONIOT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BIG RUN POWER PRODUCERS, LLC, a  
North Carolina LLC; MARICOPA RNG 1,  
LLC, a Delaware LLC; BUTTERFIELD RNG  
1, LLC, a Delaware LLC; RED RIVER  
BIOREFINERY, LLC, a Delaware LLC;  
ULTRA CAPITAL, LLC, a Delaware LLC,

Plaintiffs,

vs.

VENTURE ENGINEERING &  
CONSTRUCTION, INC., a Pennsylvania  
corporation; DAVID D. MONIOT, an  
individual; and Does 1-20,

Defendants.

Case No. 3:20-cv-09246-SK

**VENTURE ENGINEERING &  
CONSTRUCTION, INC. AND DAVID D.  
MONIOT'S MOTION FOR  
ENLARGEMENT OF TIME TO  
RESPOND TO COMPLAINT**

Date:

Time:

Courtroom: C – 15th Floor

Judge: Magistrate Sallie Kim

1 TO PLAINTIFFS AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Defendants, VENTURE ENGINEERING &  
3 CONSTRUCTION, INC. and DAVID D. MONIOT, by and through their undersigned counsel,  
4 hereby file this Motion for Enlargement of Time to Respond to Complaint, and in support thereof  
5 aver the following:

6 1. The Plaintiffs initiated this case on November 20, 2020 by filing a Complaint in the  
7 Superior Court of California, County of San Francisco at Case No. CGC-20-588265.

8 2. Defendant, Venture Engineering & Construction, Inc. (“Venture”) was served on  
9 November 24, 2020.

10 3. Counsel for David D. Moniot (“Moniot”) accepted service on his behalf on  
11 December 16, 2020.

12 4. Defendants removed this action to the United States District Court for the Northern  
13 District of California, by Notice of Removal filed on December 21, 2020. (ECF No. 1).

14 5. Plaintiffs filed a Motion for Remand on December 22, 2020. (ECF No. 8).

15 6. The Defendants require, and respectfully request, an enlargement of the time in  
16 which they are to answer or otherwise respond to the Plaintiffs’ Complaint, pursuant to Fed. R. Civ.  
17 P. 6(b) and Civil L.R. 6-3.

18 7. Specifically, Defendants request an enlargement of time to fourteen (14) days  
19 following the disposition of the Motion for Remand.

20 8. The Defendants desire an enlargement of time for the following reasons:

21 A. This is a complex case. (Holmquist Declaration, ¶¶ 2-3).

22 B. Complications related to the ongoing COVID-19 pandemic. (Holmquist  
23 Declaration, ¶ 4).

24 C. In-house counsel for Venture underwent a significant medical procedure.  
25 (Holmquist Declaration, ¶ 5).

26 D. Lost time due to the holiday season. (Holmquist Declaration, ¶ 6).

27 E. Defendants’ counsel is admitted *pro hac vice* and had to find and retain local  
28 counsel. (Holmquist Declaration, ¶ 8).

1 F. There is a pending Motion for Remand filed by Plaintiffs. (Holmquist  
2 Declaration, ¶ 9).

3 G. Defendants are currently exploring their insurance coverage. (Holmquist  
4 Declaration, ¶ 10).

5 9. Counsel for Defendants met and conferred with counsel for Plaintiffs but were  
6 unable to obtain a stipulation. (Holmquist Declaration, ¶ 11).

7 10. Defendants will suffer prejudice if this Motion is not granted. (Holmquist  
8 Declaration, ¶ 12).

9 11. No previous time modifications have been made in this case. (Holmquist  
10 Declaration, ¶ 13).

11 12. Granting the requested enlargement would slightly delay the schedule for this case.  
12 (Holmquist Declaration, ¶ 14).

13 13. Federal Rule of Civil Procedure 6(b)(1) provides that this Court may, for good cause,  
14 extend the time for a party to act.

15 14. “This rule, like all Federal Rules of Civil Procedure, [is] to be liberally construed to  
16 effectuate the general purpose of seeing that cases are tried on the merits.” *Ahanchian v. Xenon*  
17 *Pictures, Inc.*, 624 F.3d 1253 (9th Cir. 2010) (internal citations omitted).

18 WHEREFORE, it is respectfully requested that this Honorable Court enter an Order  
19 enlarging the time in which Defendants may respond to the Complaint to fourteen (14) days  
20 following the disposition of Plaintiffs’ Motion for Remand.

21  
22  
23 DATED: December 30, 2020

SPINELLI, DONALD & NOTT

24 By: /s/ROSS R. NOTT  
25 ROSS R. NOTT  
26 SEAN M. SPECIALE  
27 Attorneys for Defendants  
28 VENTURE ENGINEERING &  
CONSTRUCTION, INC. and DAVID D.  
MONIOT